

REMARKS

Applicants have carefully reviewed the Final Office Action mailed on March 12, 2009. Applicants respectfully traverse (and do not concede) all objections, rejections, adverse statements, and adverse assertions made by the Examiner. With this amendment, claims 1, 37, and 39 are amended. Claims 1, 7, 37, 39-40, and 42-43 are presented for examination.

Brief Telephone Interview with Applicants' Representative

Applicants wish to thank the Examiner for the courtesy extended to Applicants' representative during the brief telephone conversation on April 21, 2009. During the telephone conversation, Applicants' representative presented arguments to support the notion that the finality of this rejection is improper. The Examiner indicated that Applicants are free to present these arguments in a reply to the Office Action and that these arguments would be considered by the Examiner and the Examiner's supervisor, as appropriate.

Request to Withdraw the Finality of the Rejection

MPEP §706.07(b) indicates that:

The claims of an application for which a request for continued examination (RCE) has been filed may be finally rejected in the action immediately subsequent to the filing of the RCE (with a submission and fee under 37 CFR 1.114) where all the claims in the application after the entry of the submission under 37 CFR 1.114 (A) are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114, and (B) would have been properly finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to the filing of the RCE under 37 CFR 1.114.

Applicants note that in order for a rejection to be final after an RCE, the claims must be both (A) drawn to the same invention and (B) would have been properly finally rejected on the grounds and art of record in the next action. Applicants respectfully submit that at least the requirement (A) is not fulfilled.

In the Request for Continued Examination filed January 8, 2009, Applicants requested that the claim amendments submitted in the reply filed November 5, 2008 be entered. These claim amendments altered the scope of the claim invention by adding new features to the claims.

The Advisory Action mailed November 21, 2008 indicated that these claims amendments would not be entered because they change the scope in a manner that will require further search and consideration. See: Continuation sheet of the Advisory Action mailed November 21, 2008. This makes it clear that the claims, as amended in the reply filed November 5, 2008, are not drawn to the same invention. Consequently, the finality of this rejection is improper and should be withdrawn.

Claim Rejections under 35 U.S.C. §103

Claims 1, 37, 39, 40 and 43 were rejected under 35 U.S.C. §103(a) as being unpatentable over Kline in U.S. Patent No. 5,376,094 in view of Marken in U.S. Patent No. 4,875,718. Regarding claim 1, this claim is amended to recite that the swivel includes a swivel body and a bearing disposed within the swivel body. Kline does not teach or suggest a swivel. Marken does not overcome the shortcomings of Kline. For example, Marken discloses a swivel but it is a ball and socket type of swivel that is fluid tight so that fluids can be passed therethrough, and it does not include a swivel body and a bearing disposed within the swivel body. Consequently, even if the cited art is combined (which Applicants do not concede is proper), the resultant combination would still fail to teach or suggest the claimed invention. Because of this, Applicants respectfully submit that amended claim 1 is patentable over the cited art

Regarding claim 37, this claim is similarly amended to recite that the swivel includes a bearing disposed within the swivel body. For reasons similar to those set forth above in relation to claim 1, Applicants respectfully submit that amended claim 37 is patentable over the cited art.

Regarding claims 39, 40 and 43, claim 39 is similarly amended to recite that the swivel includes a swivel body and a bearing disposed within the swivel body. For reasons similar to those set forth above in relation to claims 1 and 37, Applicants respectfully submit that amended claim 39 is patentable over the cited art. Because claims 40 and 43 depend from claim 39, they are also patentable based for the same reasons as claim 39 and because they add significant elements to distinguish them further from the art.

Claims 7 and 42 were rejected under 35 U.S.C. §103(a) as being unpatentable over Kline in view of Marken as applied to claims 1, 3, 37, 39-41, and 43 above, and further in view of Fleury Jr. in U.S. Patent No. 4,326,530. For the reasons set forth above, Applicants respectfully submit that amended claims 1 and 39 are patentable over Kline and Marken. Fleury Jr. fails to

overcome the shortcomings of Kline and Marken. Consequently, Applicants respectfully submit that amended claims 1 and 39 are patentable over the combination of Kline, Marken and Fleury Jr., to the extent that such a combination is even possible. Because claims 7 and 42 depend from amended claims 1 and 39, respectively, they are also patentable for the same reasons as claims 1 and 39 and because they add significant elements to distinguish them further from the art.

Conclusion

Reexamination and reconsideration are respectfully requested. It is respectfully submitted that all pending claims are now in condition for allowance. Issuance of a Notice of Allowance in due course is requested. If a telephone conference might be of assistance, please contact the undersigned attorney at (612) 677-9050.

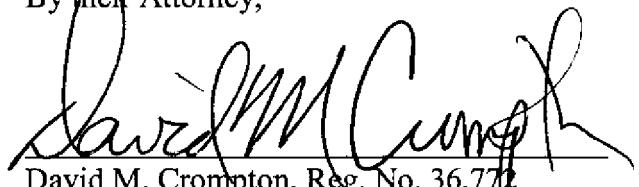
Respectfully submitted,

John A. Griego et al.

By their Attorney,

Date: _____

5/12/09



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